

REMARKS

Claims 3-19 are pending in the application. Claims 4, 7, 9, 18, and 19 are withdrawn as being drawn to non-elected inventions. Claims 3, 5, 6, 8, and 10-17 are under active consideration. Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

Rejoinder of Claims

The Examiner is reminded that claims 4, 7, 9, 18, and 19 (Group III), drawn to methods of using the elected antibodies of Group II should be rejoined per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of any product claim, for rejoinder of process claims covering the same scope of products. Applicants request that claims 4, 7, 9, 18, and 19 be rejoined and examined upon allowance of any claim drawn to the antibodies of Group II.

Rejections under 35 U.S.C. § 101 and § 112

Claims 3, 5, 6, 8, and 10-17 are rejected under 35 U.S.C. § 101 and § 112 because the claimed invention is allegedly "not supported by either a specific and substantial asserted utility or a well established utility," and one skilled in the art, therefore, would not know how to use the claimed invention (Final Office Action, page 3). Applicants traverse the rejections for the reasons already made of record in the responses to the Office Actions of September 30, 2002 and March 26, 2003, the Declaration of Mr. Furness, and on the following grounds.

Antibodies to SEQ ID NO:1 have numerous uses as described in the specification, for example, in "detecting and measuring" NABP-1 (p. 20, lines 11-18), as antagonists of NABP-1 (p. 22, lines 11-18), and in purification of NABP-1 (Example XII at p. 43). Such antibodies may also be useful for the detection of NABP-1 that may be associated with diseases, such as those listed on page 22, lines 20-28 of the specification. See the specification, for example, at page 30 for a disclosure of how to use the claimed antibodies in diagnostic assays.

Applicants note that the utility of antibodies is well recognized in the art and that it is routine for one of skill in the art to generate antibodies once a protein has been isolated. For example, see the enclosed reference of Wilson et al. (Biochem. J. 342:97-103, 1999) for a

description of the preparation and use of antibodies to human IF2, a homolog with 97% identity to the SEQ ID NO:1 polypeptide over residues 8-289.

For at least these reasons, withdrawal of the rejections under 35 U.S.C. § 101 and § 112 is respectfully requested.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding objections/rejections. Early notice to that effect is earnestly solicited.

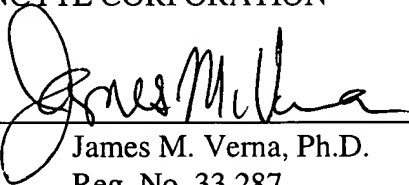
If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned at the number listed below.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

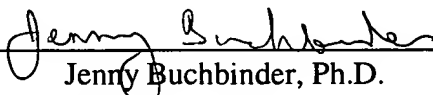
Respectfully submitted,

INCYTE CORPORATION

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Enclosures:

1. Wilson et al. Biochem. J. 342:97-103, 1999.